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REPORT
OF THE
COMMITTEE ON PUBLIC LANDS,
ON THE
MEMORIAL
OF THE
UNITED ILLINOIS
AND
WABASH LAND COMPANIES.

JANUARY 30, 1811.

**Read, and referred to a committee of the whole house on
Friday the 8th of next month.**

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1811.

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REPORT.

The committee on public lands, to whom was referred the memorial of the United Illinois and Wabash Land Companies, praying a compromise of their claim to certain lands in the Illinois territory, derived under deeds of conveyance from tribes of the Illinois and Peankishaw Indians,

REPORT....

THAT they have yielded to the subject all the consideration due to a claim highly important, as well from its great extent, as from the principles involved in the determination.

The principle on which the memorialists rest their claim is, that *a grant of lands from a tribe or nation of Indians is valid, as a conveyance of a legal or equitable estate, though unaccompanied by the sanction of the subsisting government.*

In recurring to the proclamation of the king of Great Britain, of the 7th of October, 1763, the committee find a plain and express prohibition to purchase lands of the Indians, embracing this case: the terms of the proclamation are, in the opinion of the committee,

too full and explicit to be eluded by any possible mode of purchase, or any ingenuity in reasoning that has been resorted to. This ground would be decisive upon the claim, but for the objection of the claimants, *that the proclamation is invalid for the above purpose, for want of power in the king over the subject matter*; which objection is illustrated and enforced by an elaborate and able argument, incorporated in the memorial. But, on the fullest consideration, the committee are unable to discover sufficient grounds to sustain the objection. If the Indian tribes in question are, at the period of the purchase, to be considered as independent nations, exercising the power of alienation of territory, by treaty of the nation, the king of Great Britain, representing, by the fundamental principles of the government, the nation in all *foreign concerns*, was the proper party, competent, at such treaty, to contract with said nations.* But, if the Indian tribes have, ever since their intercourse with European nations, been found incapable of independence; if the powers of Europe have, by right of discovery, occupation and conquest, claimed and exercised, from the first settlement of the country, the rights of sovereignty and jurisdiction over the territories of the Indian nations; and more especially, if the tribes in question, as it seems to the committee, were reduced to the *condition of the vanquished* in

* 1. Blac. Com. 252.

the war of 1755, having fought under the banners of France, then is the conclusion still stronger against the memorialists. To this effect, the above proclamation, of the 7th of October, 1763, asserts, in strong terms, *sovereignty and dominion* over the Indian territories; *reserves* the lands for the use of the Indians; and declares the *Indian nations under the protection of the crown*. While such language well comports with the exercise of the king's prerogative over conquered countries, it is utterly inconsistent with the independence of the Indian nations, and their absolute property and right of disposition of the lands reserved to them. It is not necessary to the conclusions the committee have come to, to consider the general question, whether *a conveyance of land by Indians, unaccompanied with the sanction of the government*, be valid, independently of the above proclamation; but the course of argument of the claimants has led the committee into the examination of this question. Your committee submit, as the result of their inquiries on this point, that although a few solitary instances may be found, in the early settlement of the country, of Indian deeds of land being recognized as valid, yet, that such were the consequences, resulting from frauds practised on the simple natives; such the collision of claims and consequent controversies; such the effects upon the public peace and intercourse with the Indian nations, that government, at a pretty ear-

ly day, interfered and assumed a kind of guardianship over the rights of the natives. Hence the principle was introduced into the code regulating the intercourse with Indian tribes, which requires the concomitant assent or subsequent sanction of the government to a conveyance of lands by Indians, in order to render it valid.* This wholesome policy was adopted by other governments, as well as that of Great Britain. This rule became, in the opinion of the committee, a part of the law of the land; and a departure from it would, as they conceive, be productive of the most injurious consequences.

If the purchase of the memorialists be valid, it must be so in *all its extent*, and to reduce it, by compromise, would be unbecoming the justice of congress; but if the grant be invalid, to admit it, in any respect, would be unauthorized, and a sacrifice of the public property.

Whether the extinguishment of the Indian title to the lands in question has been facilitated by the advances made by the memorialists to the Indians, does not appear to the committee; but if the fact be so, to recognize such unauthorized proceedings of individuals

* See Trumbull's history of Connecticut, page 117.

2d vol. Neale's history of New England, appendix.

Jefferson's notes on Virginia, page 225.

Act of Massachusetts, passed in 1701,

New Jersey, of the 13th of December, 1703.

Connecticut, of the 9th of May, 1717.

Pennsylvania, of the 14th of February, 1730.

Georgia, of the 15th of February, 1758.

7
with the Indians, as a foundation of a grant from the United States, would encroach upon the great system of policy so wisely introduced to regulate intercourse with the Indian tribes.

The committee therefore, as the result of the premises, beg leave to submit the following resolution :

Resolved, That the prayer of the petition ought *not* to be granted.

